

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

PEARSON’S PHARMACY, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 3:05-CV-1072-WKW
)	
BLUE CROSS AND BLUE SHIELD OF ALABAMA,)	
)	
)	
Defendant.)	

NOTICE OF FILING SUPPLEMENTAL AUTHORITY
IN SUPPORT OF MOTION TO REMAND

COMES NOW the Plaintiff in the above styled cause and respectfully submits the following supplemental authority in support of its previously filed Motion to Remand:

1. Thrift Drug, Inc. v. Universal Prescription Adm'rs, 131 F.3d 95 (2d Cir. 1997) (attached hereto as Exhibit “A”). In Thrift Drug, a pharmacy filed suit against a PBM for breach of contract for failing to properly reimburse the pharmacy for dispensed prescriptions. The Second Circuit held that the pharmacy’s breach of contract claim was not a claim for benefits under an ERISA benefit plan on behalf of participants and beneficiaries in welfare benefit plans. The Court further concluded that “[Plaintiff’s] contract claim has no effect on employee benefit structures or their administration and does not interfere with the calculation of any benefits owed to any employee. In short it relates only to the contractual relationship between a plan and its service provider and does not remotely touch upon the relationship between the plan and its beneficiaries.” Id. at 98.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2006, I electronically filed the foregoing with the Clerk of the United States District Court, Middle District of Alabama using the CM/ECF system, which will send notification of such filing to the following:

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